

Introduced by Senator Vasconcellos

February 18, 2003

An act to amend Sections 11100, 11100.1, 11104, 11106, 11107, and 11107.1 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 276, as introduced, Vasconcellos. Controlled substances.

(1) Existing law provides that any manufacturer, wholesaler, retailer, or other person in this state who sells, transfers, or otherwise furnishes any of a list of specified chemical substances to any person or business entity in this state or any other state shall, prior to the transaction, require a letter of authorization and "proper identification" from the purchaser, as specified, and submit a report containing specified information to the Department of Justice. Failure to submit a report or to knowingly submit a false report, and a violation of the provisions on proper identification, are crimes. Selling, transferring, or otherwise furnishing or obtaining any of the specified chemicals substances without a permit is a misdemeanor or a felony.

This bill would apply these requirements also to any entity in this state that sells, transfers, or otherwise furnishes any of the list of specified chemical substances to any person or entity in this state or any other state. The bill would add red phosphorous, as defined, to the list of chemical substances for which a report is required. The bill would revise the definition of "proper identification." The bill would require the information regarding the letter of authorization and proper identification, as well as the manifest of any common carrier used, to be maintained or retained in a readily available manner for 3 years. By

revising existing crimes, this bill would impose a state-mandated local program.

(2) Existing law provides that any person who sells, transfers, or otherwise furnishes the above specified chemical substances to a person under 18 years of age shall be punished by imprisonment in a county jail not exceeding 6 months, by a fine not exceeding \$1,000, or by both that fine and imprisonment.

This bill would provide that a second or subsequent conviction for a violation of the above provision shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$100,000, or by both that fine and imprisonment. By revising existing crimes, this bill would impose a state-mandated local program.

(3) Existing law provides that any manufacturer, wholesaler, retailer, or other person in this state who purchases for sale, or who sells to any person in this state or any other state, any laboratory glassware or apparatus, any chemical reagent or solvent, or any combination thereof, where the value of the goods sold in the transaction exceeds \$100 and payment for the goods is made by specified means, shall require proper purchaser identification and retain the bill of sale for 3 years, as specified. A violation of these provisions is a misdemeanor punishable by imprisonment in a county jail not exceeding 6 months, by a fine not exceeding \$1,000, or by both that fine and imprisonment.

This bill would provide that for sales of these goods that are face-to-face sales or will-call sales a bill of sale containing specified information shall be prepared and retained for 5 years, and for all other sales specified sales information shall be maintained for 5 years. This bill would provide that a second or subsequent conviction for a violation of the above provision shall be punished by imprisonment in a county jail not exceeding 1 year, by a fine not exceeding \$100,000, or by both that fine and imprisonment. The bill would make conforming changes to a related provision. By revising existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The bill would declare that it is to take effect immediately as an urgency statute.



Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11100 of the Health and Safety Code is
2 amended to read:
3 11100. (a) Any manufacturer, wholesaler, retailer, or other
4 person *or entity* in this state ~~who~~ *that* sells, transfers, or otherwise
5 furnishes any of the following substances to any person or ~~business~~
6 entity in this state or any other state shall submit a report to the
7 Department of Justice of all of those transactions:
8 (1) Phenyl-2-propanone.
9 (2) Methylamine.
10 (3) Ethylamine.
11 (4) D-lysergic acid.
12 (5) Ergotamine tartrate.
13 (6) Diethyl malonate.
14 (7) Malonic acid.
15 (8) Ethyl malonate.
16 (9) Barbituric acid.
17 (10) Piperidine.
18 (11) N-acetylanthranilic acid.
19 (12) Pyrrolidine.
20 (13) Phenylacetic acid.
21 (14) Anthranilic acid.
22 (15) Morpholine.
23 (16) Ephedrine.
24 (17) Pseudoephedrine.
25 (18) Norpseudoephedrine.
26 (19) Phenylpropanolamine.
27 (20) Propionic anhydride.
28 (21) Isosafrole.
29 (22) Safrole.
30 (23) Piperonal.
31 (24) Thionylchloride.
32 (25) Benzyl cyanide.
33 (26) Ergonovine maleate.
34 (27) N-methylephedrine.
35 (28) N-ethylephedrine.

- 1 (29) N-methylpseudoephedrine.
2 (30) N-ethylpseudoephedrine.
3 (31) Chloroephedrine.
4 (32) Chloropseudoephedrine.
5 (33) Hydriodic acid.
6 (34) Gamma-butyrolactone, including butyrolactone;
7 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro;
8 dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide;
9 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid
10 lactone; 3-hydroxybutyric acid lactone and 4-hydroxybutanoic
11 acid lactone with Chemical Abstract Service number (96-48-0).
12 (35) 1,4-butanediol, including butanediol; butane-1,4-diol;
13 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane;
14 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene
15 1,4-diol with Chemical Abstract Service number (110-63-4).
16 (36) *Red phosphorous, including white phosphorous,*
17 *hypophosphorous acid and its salts, ammonium hypophosphite,*
18 *calcium hypophosphite, iron hypophosphite, potassium*
19 *hypophosphite, manganese hypophosphite, magnesium*
20 *hypophosphite, and sodium hypophosphite.*
21 (37) Any of the substances listed by the Department of Justice
22 in regulations promulgated pursuant to subdivision (b).
23 (b) The Department of Justice may adopt rules and regulations
24 in accordance with Chapter 3.5 (commencing with Section 11340)
25 of Part 1 of Division 3 of Title 2 of the Government Code that add
26 substances to subdivision (a) if the substance is a precursor to a
27 controlled substance and delete substances from subdivision (a).
28 However, no regulation adding or deleting a substance shall have
29 any effect beyond March 1 of the year following the calendar year
30 during which the regulation was adopted.
31 (c) (1) Any manufacturer, wholesaler, retailer, or other person
32 *or entity* in this state, prior to selling, transferring, or otherwise
33 furnishing any substance specified in subdivision (a) to any person
34 or business entity in this state or any other state, shall require (A)
35 a letter of authorization from that person or business entity that
36 includes the currently valid business license number or federal
37 Drug Enforcement Administration (DEA) registration number,
38 the address of the business, and a full description of how the
39 substance is to be used, and (B) proper identification from the
40 purchaser. *The manufacturer, wholesaler, retailer, or other person*

1 *or entity in this state shall retain this information in a readily*
 2 *available manner for three years.* The requirement for a full
 3 description of how the substance is to be used does not require the
 4 person or business entity to reveal their chemical processes that are
 5 typically considered trade secrets and proprietary information.

6 (2) For the purposes of this subdivision, “proper
 7 identification” for in-state or out-of-state purchasers includes a
 8 ~~valid motor vehicle operator’s license or other official and valid~~
 9 ~~state issued identification of the purchaser, or individual~~
 10 ~~representing the purchasing business entity, which contains a~~
 11 ~~photograph of the purchaser or purchasing individual, and~~
 12 ~~includes the current domicile or mailing address of the purchaser~~
 13 ~~or purchasing individual, other than a post office box number.~~
 14 “Proper identification” also includes the motor vehicle license
 15 number of the motor vehicle used by the purchaser or purchasing
 16 individual at the time of transfer or the name of the common carrier
 17 and the name and valid motor vehicle operator license number of
 18 the driver of the common carrier, and the signature of the
 19 purchaser, purchasing individual, or driver of the common carrier.
 20 The person selling, transferring, or otherwise furnishing any
 21 substance specified in subdivision (a) shall affix his or her
 22 signature as a witness to the signature and identification of the
 23 purchaser, purchasing individual, or driver of the common carrier;
 24 *two or more of the following: federal tax identification number;*
 25 *seller’s permit identification number; city or county business*
 26 *license number; license issued by the California Department of*
 27 *Health Services; registration number issued by the Federal Drug*
 28 *Enforcement Administration; precursor business permit number*
 29 *issued by the Bureau of Narcotic Enforcement of the California*
 30 *Department of Justice; motor vehicle operator’s license; or other*
 31 *identification issued by a state.*

32 (d) (1) Any manufacturer, wholesaler, retailer, or other person
 33 *or entity* in this state who sells, transfers, or otherwise furnishes a
 34 substance specified in subdivision (a) to a person or business entity
 35 in this state or any other state shall, not less than 21 days prior to
 36 delivery of the substance, submit a report of the transaction, which
 37 includes the identification information specified in subdivision
 38 (c), to the Department of Justice. ~~However, the~~ *The* Department
 39 of Justice may authorize the submission of the reports on a
 40 monthly basis with respect to repeated, regular transactions

1 between the furnisher and the recipient involving the substance or
2 substances if the Department of Justice determines that ~~the~~
3 ~~following exist:~~

4 ~~(1) A~~ a pattern of regular supply of the substance or substances
5 exists between the manufacturer, wholesaler, retailer, or other
6 person *or entity* who sells, transfers, or otherwise furnishes the
7 substance or substances and the recipient of the substance or
8 substances;

9 ~~(2) The,~~ and the recipient has established a record of utilization
10 of the substance or substances for lawful purposes.

11 *(2) The person selling, transferring, or otherwise furnishing*
12 *any substance specified in subdivision (a) shall affix his or her*
13 *signature or otherwise identify himself or herself as a witness to the*
14 *identification of the purchaser or purchasing individual, and shall,*
15 *if a common carrier is used, maintain a manifest of the delivery to*
16 *the purchaser for three years.*

17 (e) This section shall not apply to any of the following:

18 (1) Any pharmacist or other authorized person who sells or
19 furnishes a substance upon the prescription of a physician, dentist,
20 podiatrist, or veterinarian.

21 (2) Any physician, dentist, podiatrist, or veterinarian who
22 administers or furnishes a substance to his or her patients.

23 (3) Any manufacturer licensed by the State Department of
24 Health Services or wholesaler licensed by the California State
25 Board of Pharmacy who sells, transfers, or otherwise furnishes a
26 substance to a licensed pharmacy, physician, dentist, podiatrist,
27 veterinarian, or retail distributor as defined in subdivision (h),
28 provided that the manufacturer or wholesaler submits records of
29 any suspicious sales or transfers as determined by the Department
30 of Justice.

31 (4) (A) Any sale, transfer, furnishing, or receipt of any drug
32 which contains ephedrine, pseudoephedrine,
33 norpseudoephedrine, or phenylpropanolamine and which is
34 lawfully sold, transferred, or furnished over the counter without a
35 prescription pursuant to the federal Food, Drug, and Cosmetic Act
36 (21 U.S.C. Sec. 301 et seq.) or regulations adopted thereunder.
37 However, this section shall apply to preparations in solid or liquid
38 dosage form, except pediatric liquid forms, as defined, containing
39 ephedrine, pseudoephedrine, norpseudoephedrine, or
40 phenylpropanolamine where the individual transaction involves

1 more than three packages or nine grams of ephedrine,
2 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine.

3 (B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or
4 phenylpropanolamine product subsequently removed from
5 exemption pursuant to Section 814 of Title 21 of the United States
6 Code shall similarly no longer be exempt from any state reporting
7 or permitting requirement, unless otherwise reinstated pursuant to
8 subdivision (d) or (e) of Section 814 of Title 21 of the United States
9 Code as an exempt product.

10 (5) Any transfer of a substance specified in subdivision (a) for
11 purposes of lawful disposal as waste.

12 (f) (1) Any person specified in subdivision (a) or (d) who does
13 not submit a report as required by that subdivision or who
14 knowingly submits a report with false or fictitious information
15 shall be punished by imprisonment in a county jail not exceeding
16 six months, by a fine not exceeding five thousand dollars (\$5,000),
17 or by both the fine and imprisonment.

18 (2) Any person specified in subdivision (a) or (d) who has
19 previously been convicted of a violation of paragraph (1) shall,
20 upon a subsequent conviction thereof, be punished by
21 imprisonment in the state prison, or by imprisonment in a county
22 jail not exceeding one year, by a fine not exceeding one hundred
23 thousand dollars (\$100,000), or by both the fine and
24 imprisonment.

25 (g) (1) Except as otherwise provided in subparagraph (A) of
26 paragraph (4) of subdivision (e), it is unlawful for any
27 manufacturer, wholesaler, retailer, or other person to sell, transfer,
28 or otherwise furnish a substance specified in subdivision (a) to a
29 person under 18 years of age.

30 (2) Except as otherwise provided in subparagraph (A) of
31 paragraph (4) of subdivision (e), it is unlawful for any person
32 under 18 years of age to possess a substance specified in
33 subdivision (a).

34 (3) Notwithstanding any other law, it is unlawful for any retail
35 distributor to (i) sell in a single transaction more than three
36 packages of a product that he or she knows to contain ephedrine,
37 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,
38 or (ii) knowingly sell more than nine grams of ephedrine,
39 pseudoephedrine, norpseudoephedrine, or phenylpropanolamine,
40 other than pediatric liquids as defined. Except as otherwise

provided in this section, the three package per transaction limitation or nine gram per transaction limitation imposed by this paragraph shall apply to any product that is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), or regulations adopted thereunder, unless exempted from the requirements of the federal Controlled Substances Act by the federal Drug Enforcement Administration pursuant to Section 814 of Title 21 of the United States Code.

(4) (A) A first violation of this subdivision is a misdemeanor.

(B) Any person who has previously been convicted of a violation of this subdivision shall, upon a subsequent conviction thereof, be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding one hundred thousand dollars (\$100,000), or by both the fine and imprisonment.

(h) For the purposes of this article, the following terms have the following meanings:

(1) “Drug store” is any entity described in Code 5912 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(2) “General merchandise store” is any entity described in Codes 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(3) “Grocery store” is any entity described in Code 5411 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(4) “Pediatric liquid” means a nonencapsulated liquid whose unit measure according to product labeling is stated in milligrams, ounces, or other similar measure. In no instance shall the dosage units exceed 15 milligrams of phenylpropanolamine or pseudoephedrine per five milliliters of liquid product, except for liquid products primarily intended for administration to children under two years of age for which the recommended dosage unit does not exceed two milliliters and the total package content does not exceed one fluid ounce.

(5) “Retail distributor” means a grocery store, general merchandise store, drugstore, or other related entity, the activities of which, as a distributor of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products, are

limited exclusively to the sale of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products for personal use both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. “Retail distributor” includes an entity that makes a direct sale, but does not include the parent company of that entity if the company is not involved in direct sales regulated by this article.

(6) “Sale for personal use” means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine in dosages at or below that specified in paragraph (3) of subdivision (g). “Sale for personal use” also includes the sale of those products to employers to be dispensed to employees from first-aid kits or medicine chests.

(i) It is the intent of the Legislature that this section shall preempt all local ordinances or regulations governing the sale by a retail distributor of over-the-counter products containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine.

SEC. 2. Section 11100.1 of the Health and Safety Code is amended to read:

11100.1. (a) Any manufacturer, wholesaler, retailer, or other person *or entity* in this state who obtains from a source outside of this state any substance specified in subdivision (a) of Section 11100 shall submit a report of that transaction to the Department of Justice 21 days in advance of obtaining the substance. However, the Department of Justice may authorize the submission of reports within 72 hours, or within a timeframe and in a manner acceptable to the Department of Justice, after the actual physical obtaining of a specified substance with respect to repeated transactions between a furnisher and an obtainer involving the substances, if the Department of Justice determines that the obtainer has established a record of utilization of the substances for lawful purposes. This section does not apply to any person whose prescribing or dispensing activities are subject to the reporting requirements set forth in Section 11164, or to any manufacturer, wholesaler, retailer, or other person who is licensed by either the State Department of Health Services or the California State Board of Pharmacy, and is also registered with the federal Drug

1 Enforcement Administration of the United States Department of
2 Justice.

3 (b) (1) Any person specified in subdivision (a) who does not
4 submit a report as required by that subdivision shall be punished
5 by imprisonment in a county jail not exceeding six months, by a
6 fine not exceeding five thousand dollars (\$5,000), or by both that
7 fine and imprisonment.

8 (2) Any person specified in subdivision (a) who has been
9 previously convicted of a violation of subdivision (a) who
10 subsequently does not submit a report as required by subdivision
11 (a) shall be punished by imprisonment in the state prison, or by
12 imprisonment in a county jail not exceeding one year, by a fine not
13 exceeding one hundred thousand dollars (\$100,000), or by both
14 that fine and imprisonment.

15 SEC. 3. Section 11104 of the Health and Safety Code is
16 amended to read:

17 11104. (a) Any manufacturer, wholesaler, retailer, or other
18 person *or entity* who sells, transfers, or otherwise furnishes any of
19 the substances listed in subdivision (a) of Section 11100 with
20 knowledge or the intent that the recipient will use the substance to
21 unlawfully manufacture a controlled substance is guilty of a
22 felony.

23 (b) Any manufacturer, wholesaler, retailer, or other person *or*
24 *entity* who sells, transfers, or otherwise furnishes any laboratory
25 glassware or apparatus, any chemical reagent or solvent, or any
26 combination thereof, where the value of the goods in the
27 transaction exceeds one hundred dollars (\$100), or any chemical
28 substance specified in Section 11107.1, with knowledge that the
29 recipient will use the goods or chemical substance to unlawfully
30 manufacture a controlled substance, is guilty of a misdemeanor.

31 (c) Any person who receives or distributes any substance listed
32 in subdivision (a) of Section 11100, or any laboratory glassware
33 or apparatus, any chemical reagent or solvent, or any combination
34 thereof, where the value of the goods in the transaction exceeds
35 one hundred dollars (\$100), or any chemical substance specified
36 in Section 11107.1, with the intent of causing the evasion of the
37 recordkeeping or reporting requirements of this article, is guilty of
38 a misdemeanor.

39 SEC. 4. Section 11106 of the Health and Safety Code is
40 amended to read:



11106. (a) (1) (A) Any manufacturer, wholesaler, retailer, or any other person or business entity in this state who sells, transfers, or otherwise furnishes any substance specified in subdivision (a) of Section 11100 to a person or business entity in this state or any other state or who obtains from a source outside of the state any substance specified in subdivision (a) of Section 11100 shall submit an application to, and obtain a permit for the conduct of that business from, the Department of Justice. For any substance added to the list set forth in subdivision (a) of Section 11100 on or after January 1, 2002, the Department of Justice may postpone the effective date of the requirement for a permit for a period not to exceed six months from the listing date of the substance.

(B) An intracompany transfer does not require a permit if the transferor is a permittee. Transfers between company partners or between a company and an analytical laboratory do not require a permit if the transferor is a permittee and a report as to the nature and extent of the transfer is made to the Department of Justice pursuant to Section 11100 or 11100.1.

(C) This paragraph shall not apply to any manufacturer, wholesaler, retailer, or other person who is licensed by either the State Department of Health Services or the California State Board of Pharmacy, and is also registered with the federal Drug Enforcement Administration of the United States Department of Justice.

(2) Except as provided in paragraph (3), no permit shall be required of any manufacturer, wholesaler, retailer, or other person for the sale, transfer, furnishing, or obtaining of any product which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and which is lawfully sold, transferred, or furnished over the counter without a prescription or by a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or regulations adopted thereunder.

(3) A permit shall be required for the sale, transfer, furnishing, or obtaining of preparations in solid or liquid dosage form containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, unless (A) the transaction involves the sale of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products by retail distributors as defined by this article over the counter and without a prescription, or (B) the

1 transaction is made by a person or business entity exempted from
2 the permitting requirements of this subdivision under paragraph
3 (1).

4 (b) (1) The department shall provide application forms, which
5 are to be completed under penalty of perjury, in order to obtain
6 information relating to the identity of any applicant applying for
7 a permit, including, but not limited to, the business name of the
8 applicant or the individual name, and if a corporate entity, the
9 names of its board of directors, the business in which the applicant
10 is engaged, the business address of the applicant, a full description
11 of any substance to be sold, transferred, or otherwise furnished or
12 to be obtained, the specific purpose for the use, sale, or transfer of
13 those substances specified in subdivision (a) of Section 11100, the
14 training, experience, or education relating to this use, and any
15 additional information requested by the department relating to
16 possible grounds for denial as set forth in this section, or by
17 applicable regulations adopted by the department.

18 (2) The requirement for the specific purpose for the use, sale,
19 or transfer of those substances specified in subdivision (a) of
20 Section 11100 does not require an applicant or permittee to reveal
21 their chemical processes that are typically considered trade secrets
22 and proprietary business information.

23 (c) Applicants and permittees shall authorize the department,
24 or any of its duly authorized representatives, as a condition of
25 being permitted, to make any examination of the books and
26 records of any applicant, permittee, or other person, or visit and
27 inspect the business premises of any applicant or permittee during
28 normal business hours, as deemed necessary to enforce this
29 chapter.

30 (d) An application may be denied, or a permit may be revoked
31 or suspended, for reasons which include, but are not limited to, the
32 following:

33 (1) Materially falsifying an application for a permit or an
34 application for the renewal of a permit.

35 (2) If any individual owner, manager, agent, representative, or
36 employee for the applicant who has direct access, management, or
37 control for any substance listed under subdivision (a) of Section
38 11100, is or has been convicted of a misdemeanor or felony
39 relating to any of the substances listed under subdivision (a) of



1 Section 11100, any misdemeanor drug-related offense, or any
2 felony under the laws of this state or the United States.

3 (3) Failure to maintain effective controls against the diversion
4 of precursors to unauthorized persons or entities.

5 (4) Failure to comply with this article or any regulations of the
6 department adopted thereunder.

7 (5) Failure to provide the department, or any duly authorized
8 federal or state official, with access to any place for which a permit
9 has been issued, or for which an application for a permit has been
10 submitted, in the course of conducting a site investigation,
11 inspection, or audit; or failure to promptly produce for the official
12 conducting the site investigation, inspection, or audit any book,
13 record, or document requested by the official.

14 (6) Failure to provide adequate documentation of a legitimate
15 business purpose involving the applicant's or permittee's use of
16 any substance listed in subdivision (a) of Section 11100.

17 (7) Commission of any act which would demonstrate actual or
18 potential unfitness to hold a permit in light of the public safety and
19 welfare, which act is substantially related to the qualifications,
20 functions, or duties of a permitholder.

21 (8) If any individual owner, manager, agent, representative, or
22 employee for the applicant who has direct access, management, or
23 control for any substance listed under subdivision (a) of Section
24 11100, willfully violates or has been convicted of violating, any
25 federal, state, or local criminal statute, rule, or ordinance
26 regulating the manufacture, maintenance, disposal, sale, transfer,
27 or furnishing of any of those substances.

28 (e) Notwithstanding any other provision of law, an
29 investigation of an individual applicant's qualifications, or the
30 qualifications of an applicant's owner, manager, agent,
31 representative, or employee who has direct access, management,
32 or control of any substance listed under subdivision (a) of Section
33 11100, for a permit may include review of his or her summary
34 criminal history information pursuant to Sections 11105 and
35 13300 of the Penal Code, including, but not limited to, records of
36 convictions, regardless of whether those convictions have been
37 expunged pursuant to Section 1204.5 of the Penal Code, and any
38 arrests pending adjudication.

1 (f) The department may retain jurisdiction of a canceled or
2 expired permit in order to proceed with any investigation or
3 disciplinary action relating to a permittee.

4 (g) The department may grant permits on forms prescribed by
5 it, which shall be effective for not more than one year from the date
6 of issuance and which shall not be transferable. Applications and
7 permits shall be uniform throughout the state, on forms prescribed
8 by the department.

9 (h) Each applicant shall pay at the time of filing an application
10 for a permit a fee determined by the department which shall not
11 exceed the application processing costs of the department.

12 (i) A permit granted pursuant to this article may be renewed one
13 year from the date of issuance, and annually thereafter, following
14 the timely filing of a complete renewal application with all
15 supporting documents, the payment of a permit renewal fee not to
16 exceed the application processing costs of the department, and a
17 review of the application by the department.

18 (j) Selling, transferring, or otherwise furnishing or obtaining
19 any substance specified in subdivision (a) of Section 11100
20 without a permit is a misdemeanor or a felony.

21 (k) (1) No person under 18 years of age shall be eligible for a
22 permit under this section.

23 (2) No business for which a permit has been issued shall
24 employ a person under 18 years of age in the capacity of a manager,
25 agent, or representative.

26 (l) (1) An applicant, or an applicant's employees who have
27 direct access, management, or control of any substance listed
28 under subdivision (a) of Section 11100, for an initial permit shall
29 submit with the application two sets of 10-print fingerprint cards
30 for each individual acting in the capacity of an owner, manager,
31 agent, or representative for the applicant, unless the applicant's
32 employees are exempted from this requirement by the Department
33 of Justice. These exemptions may only be obtained upon the
34 written request of the applicant.

35 (2) In the event of subsequent changes in ownership,
36 management, or employment, the permittee shall notify the
37 department in writing within 15 calendar days of the changes, and
38 shall submit ~~two sets~~ *one set* of 10-print fingerprint cards for each
39 individual not previously fingerprinted under this section.



SEC. 5. Section 11107 of the Health and Safety Code is amended to read:

11107. (a) Any manufacturer, wholesaler, retailer, or other person *or entity* in this state ~~who purchases for sale, or who sells to any person *or entity* in this state or any other state who purchases for sale, or who sells, t~~ any laboratory glassware or apparatus, any chemical reagent or solvent, or any combination thereof, where the value of the goods sold in the transaction exceeds one hundred dollars (\$100) ~~and the payment for the goods is made in cash, by personal check, cashier's check, money order, or any other negotiable instrument~~ shall do the following:

(1) Notwithstanding any other law, *in any face-to-face or will-call sale, the seller shall* prepare a bill of sale which ~~both~~ identifies the *date of sale, cost of product, method of payment,* specific items and quantities purchased and the proper purchaser identification information, ~~both~~ *all* of which shall be entered onto the bill of sale or a legible copy of the bill of sale, and shall also affix on the bill of sale his or her signature as witness to the purchase and identification of the purchaser.

~~(2) Notwithstanding any other law, require proper~~

(A) *For purposes of this section 'proper purchaser identification for in-state purchases that identification'* includes a valid motor vehicle operator's license or other official and valid state-issued identification of the purchaser that contains a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number, the motor vehicle license number of the motor vehicle used by the purchaser at the time of purchase, a description of how the substance is to be used, and the signature of the purchaser. ~~Proper purchaser identification for out-of-state purchases includes all of the above, except the motor vehicle license number and the signature of the purchaser. The out-of-state purchase information shall also include the means by which the purchase was delivered or provided to the purchaser and the delivery address, if different from the identification address provided by the purchaser.~~

~~(3) Retain~~

(B) *The seller shall retain* the original bill of sale containing the purchaser identification information for ~~three~~ *five* years in a readily presentable manner, and present the bill of sale containing the purchaser identification information upon demand by any law

1 enforcement officer or authorized representative of the Attorney
2 General. Copies of these bills of sale obtained by representatives
3 of the Attorney General shall be maintained by the Department of
4 Justice for a period of not less than five years.

5 (2) (A) *Notwithstanding any other law, in all sales other than*
6 *face-to-face or will-call sales the seller shall maintain for a period*
7 *of five years the following sales information: the name and address*
8 *of the purchaser; date of sale, product description, cost of product,*
9 *method of payment, method of delivery, delivery address, and valid*
10 *indentifying information.*

11 (B) *For the purposes of this paragraph, ‘valid identifying*
12 *information’ includes two or more of the following: federal tax*
13 *identification number; resale tax identification number; city or*
14 *county business license number; license issued by the State*
15 *Department of Health Services; registration number issued by the*
16 *federal Drug Enforcement Administration; precursor business*
17 *permit number issued by the Bureau of Narcotic Enforcement of*
18 *the Department of Justice; motor vehicle operator’s license; or*
19 *other identification issued by a state.*

20 (C) *The seller shall, upon the request of any law enforcement*
21 *officer or any authorized representative of the Attorney General,*
22 *produce a report or record of sale containing the information in a*
23 *readily presentable manner.*

24 (D) *If a common carrier is used, the seller shall maintain a*
25 *manifest regarding the delivery in a readily presentable manner*
26 *and for a period of five years.*

27 (b) This section shall not apply to any wholesaler who is
28 licensed by the California State Board of Pharmacy and registered
29 with the federal Drug Enforcement Administration of the United
30 States Department of Justice and who sells laboratory glassware
31 or apparatus, any chemical reagent or solvent, or any combination
32 thereof, to a licensed pharmacy, physician, dentist, podiatrist, or
33 veterinarian.

34 (c) A violation of this section is a misdemeanor.

35 (d) For the purposes of this section, the following terms have
36 the following meanings:

37 (1) “Laboratory glassware” includes, but is not limited to,
38 condensers, flasks, separatory funnels, and beakers.

39 (2) “Apparatus” includes, but is not limited to, heating
40 mantles, ring stands, and rheostats.

(3) “Chemical reagent” means a chemical that reacts chemically with one or more precursors, but does not become part of the finished product.

(4) “Chemical solvent” means a chemical that does not react chemically with a precursor or reagent and does not become part of the finished product. A “chemical solvent” helps other chemicals mix, cools chemical reactions, and cleans the finished product.

SEC. 6. Section 11107.1 of the Health and Safety Code is amended to read:

11107.1. (a) Any manufacturer, wholesaler, retailer, or other person *or entity* in this state who sells to any person *or entity* in this state or any other state any quantity of sodium cyanide, potassium cyanide, cyclohexanone, bromobenzene, magnesium turnings, mercuric chloride, sodium metal, lead acetate, palladium black, ~~red phosphorous~~, iodine, hydrogen chloride gas, trichlorofluoromethane (fluorotrichloromethane), dichlorodifluoromethane, 1,1,2-trichloro-1,2,2-trifluoroethane (trichlorotrifluoroethane), sodium acetate, or acetic anhydride shall do the following:

(1) (A) Notwithstanding any other provision of law, *in any face-to-face or will-call sale, the seller shall* prepare a bill of sale which ~~both~~ identifies the *date of sale, cost of sale, method of payment, the* specific items and quantities purchased and the proper purchaser identification information, ~~both~~ *all* of which shall be entered onto the bill of sale or a legible copy of the bill of sale, and shall also affix on the bill of sale his or her signature as witness to the purchase and identification of the purchaser.

~~(2) Notwithstanding any other provision of law, require proper purchaser identification for in-state purchases that~~

(B) *For the purposes of this paragraph, “proper purchaser identification”* includes a valid motor vehicle operator’s license or other official and valid state-issued identification of the purchaser that contains a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number, the motor vehicle license number of the motor vehicle used by the purchaser at the time of purchase, a description of how the substance is to be used, the Environmental Protection Agency certification number or ~~business~~ *resale tax identification* number assigned to the individual or business entity for which the

1 individual is purchasing any chlorofluorocarbon product, and the
2 signature of the purchaser. ~~Proper purchaser identification for~~
3 ~~out-of-state purchases includes all of the above, except the motor~~
4 ~~vehicle license number and the signature of the purchaser. The~~
5 ~~out-of-state purchase information shall also include the means by~~
6 ~~which the purchase was delivered or provided to the purchaser and~~
7 ~~the delivery address, if different from the identification address~~
8 ~~provided by the purchaser.~~

9 ~~(3) Retain~~

10 (C) *The seller shall retain the original bill of sale containing the*
11 *purchaser identification information for three five years in a*
12 *readily presentable manner, and present the bill of sale containing*
13 *the purchaser identification information upon demand by any law*
14 *enforcement officer or authorized representative of the Attorney*
15 *General. Copies of these bills of sale obtained by representatives*
16 *of the Attorney General shall be maintained by the Department of*
17 *Justice for a period of not less than five years.*

18 (2) (A) *Notwithstanding any other law, in all sales other than*
19 *face-to-face or will-call sales the seller shall maintain for a period*
20 *of five years the following sales information: the name and address*
21 *of the purchaser; date of sale, product description, cost of product,*
22 *method of payment, method of delivery, delivery address, and valid*
23 *identifying information.*

24 (B) *For the purposes of this paragraph, 'valid identifying*
25 *information' includes two or more of the following: federal tax*
26 *identification number; resale tax identification number; city or*
27 *county business license number; license issued by the State*
28 *Department of Health Services; registration number issued by the*
29 *federal Drug Enforcement Administration; precursor business*
30 *permit number issued by the Bureau of Narcotic Enforcement of*
31 *the Department of Justice; motor vehicle operator's license; or*
32 *other identification issued by a state.*

33 (C) *The seller shall, upon the request of any law enforcement*
34 *officer or any authorized representative of the Attorney General,*
35 *produce a report or record of sale containing the information in a*
36 *readily presentable manner.*

37 (D) *If a common carrier is used, the seller shall maintain a*
38 *manifest regarding the delivery in a readily presentable manner for*
39 *a period of five years.*

(b) Any manufacturer, wholesaler, retailer, or other person *or entity* in this state who purchases any item listed in subdivision (a) of Section 11107.1 shall do the following:

(1) Provide on the record of purchase information on the source of the items purchased, the date of purchase, a description of the specific items, the quantities of each item purchased, and the cost of the items purchased.

(2) Retain the record of purchase for three years in a readily presentable manner and present the record of purchase upon demand to any law enforcement officer or authorized representative of the Attorney General.

(c) (1) Except as provided in ~~subdivision (d)~~ *paragraph (2)*, no manufacturer, wholesaler, retailer, or other person *or entity* shall sell to any individual, and no individual shall buy, more than eight ounces of iodine in any 30-day period.

(2) ~~Except as provided in subdivision (d), no manufacturer, wholesaler, retailer, or other person shall sell to any individual, and no individual shall buy, more than four ounces of red phosphorous in any 30-day period.~~

~~(3) This subdivision does not apply to any sale of red phosphorous made to a person or business that is licensed or regulated by state or federal law with respect to the purchase or use of red phosphorous.~~

~~(d)~~ For purposes of this section, these requirements do not apply to either of the following:

~~(1)~~

(A) Any sale of tincture of iodine or any topical solution containing iodine that is equal to or less than one hundred dollars (\$100).

~~(2)~~

(B) Any sale of iodine made to a licensed health care facility, any manufacturer licensed by the State Department of Health Services, or wholesaler licensed by the California State Board of Pharmacy who sells, transfers, or otherwise furnishes the iodine to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian.

~~(e)~~

(d) (1) A first violation of this section is a misdemeanor.

(2) Any person who has previously been convicted of a violation of this section shall, upon a subsequent conviction thereof, be punished by imprisonment in a county jail not

1 *exceeding one year; by a fine not exceeding one hundred thousand*
2 *dollars (\$100,000), or both the fine imprisonment.*

3 SEC. 7. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

12 SEC. 8. This act is an urgency statute necessary for the
13 immediate preservation of the public peace, health, or safety
14 within the meaning of Article IV of the Constitution and shall go
15 into immediate effect. The facts constituting the necessity are:

16 In order to more closely conform California law with federal
17 requirements and streamline procedures for the sales of controlled
18 precursors as soon as possible, it is necessary that this act take
19 effect immediately.

